IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

W.P. No.10402 of 2002

N.Kumara Perumal ... Petitioner

-vs-

1. The Inspector General,
Central Industrial Security Force,
CISF South West Sector,
RCFL Complex,
Chembur,
Mumbai 400 074.

2. The Deputy Inspector General,
CISF, Southern Zone,
D Block, Rajaji Bhavan,
Besant Nagar,
Chennai 600 090.

3. The Commandant,
CISF Unit,
Neyveli Lignite Corporation,
Neyveli.

4. The Assistant Commandant,
CISF Unit, NLC,
Neyveli. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari as stated therein.

For Petitioner : Mr.T.N.Sugesh

For Respondents : Mr.M.Dhamodaran, CGSC

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The prayer in the writ petition is for a writ of certiorari to call for the records relating to the impugned order of the second respondent in Order No.V-15016/02/2001/L&R(SZ)-9512 dated 31.12.2001 and the order of the third respondent in No.V-15013/CISF/NLC/Disc/Appeal/2000-8216 dated 19.10.2000 and the order of the fourth respondent in No.V-15014/CISF/NLC/AC/N.K.P/2000-79 dated 09.06.2000.

2. The charge framed against the petitioner reads as under:

> "No.882296478 Constable N.K.Perumal of Hqrs Coy., CISF Unit NLC Neyveli was found absent from the Game Parade/Roll Call without any permission/information from higher authority, which was held at FWC Ground Block-15 at about 1630 hrs on 26.04.2000. This act on the part of said Const. is gross indiscipline severe misconduct and unbecoming of member of an Armed Force."

3. As against the said charge, in the explanation dated 31.05.2000, the petitioner has stated that since he had to go to G.H. for treatment of his stomach pain on 26.04.2000 at 14.00 hrs, he had informed HC/GD Shri Prabakaran about this and obtained permission to go to G.H. Accordingly, he attended evening O.P. on 26.04.2000 and underwent treatment. Along with the said explanation, he enclosed a copy of the medical treatment book.

4. The original authority, after finding that there is no specific order or prior permission from the authority concerned, refused to accept the explanation and awarded a punishment of "fine equivalent to one day pay" and the said order was confirmed by the appellate authority. Against the order of the appellate authority-third respondent, the petitioner preferred a revision to the second respondent. The revisional authority, after finding that the punishment imposed by the original authority was too lenient, issued a show cause notice to enhance the punishment to "Withholding of one increment for a period of one year".

5. Though on the second occasion the explanation of the petitioner was considered and the revisional authority has passed an order enhancing the punishment, on going through the charge levelled against the petitioner, the explanation offered by him and the ultimate punishment imposed by the original authority as confirmed by the appellate authority, we are of the view that the enhanced punishment imposed by the revisional authority is not warranted. It is true that the petitioner has not substantiated his claim that he obtained prior permission from one Prabhakaran/HC. However, he produced medical certificate book from the hospital concerned to show that on the relevant date, he attended the hospital. The only thing that he did not obtain prior permission before leaving the parade and going to hospital and for that, the original authority, based on the materials, imposed an

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appropriate punishment, that is "fine equivalent to one day pay". The punishment imposed by the original authority, confirmed by the appellate authority, is appropriate and we are satisfied that there is no valid ground or an additional material warranting enhanced punishment as awarded by the revisional authority.

6. In the light of our discussion, the impugned order of the second respondent dated 31.12.2001 is quashed and the other two orders dated 19.10.2000 and 09.06.2000 passed by third and fourth respondents respectively are confirmed.

7. The writ petition is allowed in part to the extent mentioned above. No costs.

gms

Sd/-
Asst. Registrar

//true copy//

Sub Asst.Registrar

To

1. The Inspector General, Central Industrial Security Force,CISF South West Sector,RCFL Complex,Chembur,Mumbai 400 074.

2. The Deputy Inspector General, CISF, Southern Zone,D Block, Rajaji Bhavan, Besant Nagar,Chennai 600 090.

3. The Commandant, CISF Unit,Neyveli Lignite Corporation,Neyveli.

4. The Assistant Commandant, CISF Unit, NLC,Neyveli.

+ one cc to Mr.M.Dhamodharan, Advocate Sr.No.44603.
+ one cc to Mr.T.N.Sugesh, Advocate Sr.No.44342.

NA (CO)
RSM/12.10.2006

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